

Issued February 8, 1910.

## United States Department of Agriculture,

OFFICE OF THE SECRETARY.

### NOTICE OF JUDGMENT NO. 143, FOOD AND DRUGS ACT.

#### ADULTERATION AND MISBRANDING OF STRAWBERRY EXTRACT.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 14th day of June, 1909, in the District Court of the United States for the Eastern District of Louisiana, in a prosecution by the United States against H. B. Howell & Company, Limited, a corporation of New Orleans, Louisiana, for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Louisiana to Mississippi an adulterated and misbranded strawberry extract, the said H. B. Howell & Company, Limited, entered a plea of guilty and the court imposed upon it a fine of \$10.

The facts in the case were as follows:

On April 9, 1908, an inspector of the Department of Agriculture purchased from the Hartman Mercantile Company, Brookhaven, Mississippi, a sample (I. S. No. 2161-a) of a food product labeled: (On carton) "Hoyt's Strawberry Flavor composed of the delicate flavor of the fruit," (on front of bottle) "Pure and Concentrated Extract of Strawberry," (on back of bottle) "This preparation artificially colored, contains  $7\frac{1}{2}$  grains amyl acetate to the fluid ounce. Guaranteed, etc. Serial No. 198." The sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and the following results obtained and stated:

|                                   |               |
|-----------------------------------|---------------|
| Specific gravity (15.5° C.)       | 0.9786        |
| Alcohol by volume (per cent)      | 41.30         |
| Esters as amyl acetate (per cent) | 1.72          |
| Solids (grams per 100 cc.)        | 13.31         |
| Color                             | Coal tar dye. |

A flavoring extract, as recognized by reliable manufacturers and dealers, is a solution in ethyl alcohol of proper strength of the sapid and odorous principles derived from an aromatic plant, or parts of the plant, with or without its coloring matter, and conforms in name to the plant used in its preparation. The analysis of the aforesaid sample disclosed practically the total absence of the sapid and odorous principles of the strawberry, hence the article was adulterated within the meaning of section 7 of the act in that an imitation extract, artificially colored in a manner whereby its inferiority was concealed, was substituted wholly for the strawberry extract which it purported to be, and was misbranded within the meaning of section 8 of the act in that it was labeled (on carton) "Hoyt's Strawberry Flavor composed of the delicate flavor of the fruit," (on bottle) "Pure and Concentrated Extract of Strawberry," which statements were false, misleading, and deceptive because it was not an extract of strawberry, but merely an imitation extract.

It appearing from the aforesaid analysis that the article was adulterated and misbranded, the Secretary of Agriculture gave notice to the Hartman Mercantile Company, the dealers from whom the sample was purchased, and also to H. B. Howell & Company, Limited, the manufacturer and shipper, and gave them an opportunity to be heard. H. B. Howell & Company, Limited, being the party solely responsible for the adulteration and misbranding of the article and failing to show any fault or error in the result of the aforesaid analysis and it being determined that the article was adulterated and misbranded, on February 27, 1909, the said Secretary reported the facts and evidence (F. & D. No. 484) to the Attorney General by whom they were referred to the United States Attorney for the Eastern District of Louisiana who filed an information against H. B. Howell & Company, Limited, with the result hereinbefore stated.

JAMES WILSON,  
*Secretary of Agriculture.*

JANUARY 10, 1910.

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